

MINUTES OF THE SPECIAL MEETING OF THE TRINIDAD CITY COUNCIL
TUESDAY, FEBRUARY 13, 2018

I. CALL TO ORDER

- Mayor Rotwein called the meeting to order at 6:30pm. Council members in attendance: West, Ladwig, Miller, Baker, Rotwein.
- City Staff in attendance: City Manager Dan Berman, City Attorney Andy Stunich, City Clerk Gabriel Adams.

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF AGENDA

*Motion (West/Baker) to approve the agenda. **Passed unanimously.***

IV. COUNCIL REPORTS – No reports.

V. STAFF REPORTS – Deferred to the upcoming meeting on the 15th.

VI. ITEMS FROM THE FLOOR – No items from the floor were presented.
(Three (3) minute limit per Speaker unless Council approves request for extended time.)

VII. CONSENT AGENDA – No consent items.

VIII. DISCUSSION/ACTION AGENDA ITEMS

1. Discussion of the Tsurai Management Team.

City Manager Berman explained that the City of Trinidad is one of four entities currently represented on the Tsurai Management Team (TMT). The TMT is a stakeholder based advisory group formed first to help prepare the Tsurai Management Plan (TMP), and then tasked in the Plan with a goal of guiding TMP implementation to protect and restore the resources of the Tsurai Study Area. The TMT is effectively an advisory group to the TSA land owner, and a forum for stakeholders to work together to implement the Tsurai Management Plan.

The City of Trinidad is the current owner of 12.5 acres of land which includes the historic Yurok village of Tsurai and is referred to as the Tsurai Study Area* (TSA). The City acquired the TSA from the California Coastal Conservancy, who hold an easement for public access and cultural resource protection over the property.

The Tsurai Management Plan (2007) was drafted by the Yurok Tribe with guidance from the Tsurai Management Team and financial support from the Coastal Conservancy. The Vision Statement of the TMP describes the Plan's goal to 'enhance and coordinate effective management of the TSA... to protect, preserve, and restore the cultural, natural and recreational resources... for this and future generations.' The TMP includes current and historical information on the resources and history of the TSA, discussion of resource management issues, and recommendations for management of the site. The TMP tasks the Tsurai Management Team to guide implementation of the Plan's recommendations.

While the TMP was being drafted, the City of Trinidad, TAS, and Coastal Conservancy committed to making best efforts to implement the Plan's recommendations as part of a legal settlement (Frame 2005). The City adopted the Tsurai Management Plan in 2007.

TMT Membership and Stakeholders: The TMP lists the following 7 entities as 'stakeholder groups ...who have a vested interest in the management of the TSA.' (p 3)

- Tsurai Ancestral Society
- City of Trinidad
- California Coastal Conservancy
- Yurok Tribe
- Cher-Ae Heights Indian Community of the Trinidad Rancheria
- Adjacent Property Owners (including individuals, the Trinidad Civic Club, and the Trinidad Coastal Land Trust)
- Interested Public (anyone with an interest in the management of the TSA)

Current TMT Membership: The Tsurai Management Team currently includes four of these seven identified stakeholder groups: the Yurok Tribe, the Tsurai Ancestral Society, the City of Trinidad, and the California Coastal Conservancy.

The TMP states: 'The (Trinidad) Rancheria was invited to participate as a member of the Management Team for the purposes of preparing this plan, but declined. However, at this time they remain a stakeholder as identified in the City's consultation protocol of Policy 69.' (p 4). The Trinidad Rancheria declined that initial invitation based on lack of staff resources at the time (circa 2005), and noted their interest in participating in the future. They have since expressed their interest in the Tsurai Study Area and in joining the Tsurai Management Team on multiple occasions over many years. The TMP provides no further guidance on possible changes to the TMT membership, but does call for an adaptive management approach to implementation.

City General Plan Policy 69: Policy 69 is the specific policy in the Trinidad Local Coastal Plan (1989) that deals with the protection of archeological and cultural resources within the Tsurai Study Area. It specifically identifies the Trinidad Rancheria, among others, as having a right of consultation on projects on the area of the TSA designated as 'Open Space' in the City Zoning Maps.

Policy 69 states: "There shall be no disturbance, vegetative removal or construction, except for a protective fence around the burial ground, on lands designated as Open Space within the Tsurai Study Area without the approval of the lineal descendants of Tsurai, Trinidad Rancheria, City of Trinidad, and the State Historic Preservation Office"

TMT Process: Guidelines or bylaws: The TMT does not have written bylaws or guidelines outside of the language in the Tsurai Management Plan itself. In recent years the TMT has attempted to operate by unanimous consensus. The City, as property owner, can propose and advance projects on the TSA after a good faith effort at consensus and consultation, but has been reluctant to do so without the full support of the TMT. This is especially true considering past legal actions and permit appeals for projects on or near the TMT

The limited guidance in the Management Plan regarding TMT process includes this statement in Part 11: Recommendations:

"Although it is understood that consensus among the Team is ideal, consensus is not always feasible. Therefore, determinations of implementation should be focused on what is best for the entire TSA, including protection of the recreational, cultural, and natural resources contained therein."

Open vs. Closed meetings: The TMT has normally held closed meetings, with guests outside of the TMT members invited only by unanimous consent of the TMT.

TMT and the Brown Act: The Brown Act requires that 'standing committees' of the City hold their meetings in accordance with the Brown Act. This means the meetings are open to the public, and agendas are posted in advance. The definition of 'standing committee' is broadly interpreted as a committee involving appointed Councilmembers, meeting on an ongoing basis, to address a specific issue or set of issues. Staff believe a cautious interpretation could make the TMT subject to the Brown Act if Councilmembers are central City representatives to the group.

Implementation of the TMP: Some TMP recommendations have been implemented, including drainage projects, increased oversight of septic systems in Trinidad, septic system repairs upstream of the TSA, and trail maintenance. Other recommended projects including signage, vegetation management, and a handrail on the Axel Lindgren Memorial Trail, have not advanced.

The TMT has made two significant efforts towards the recommendation to transfer ownership of the TSA. The first was in 2008-2010, when the City and Yurok Tribe were close to completing a land transfer, but the TAS asked the City not to go forward. The second effort at land transfer spans from 2015 to the present and is currently ongoing. The City and TAS agreed in concept in December 2016 to transfer the land to the Yurok Tribe and TAS. The necessary agreements and approvals from the Coastal Conservancy have been in development over the past year and are near complete. The final agreements will need approval by the City, TAS, the Yurok Tribe and the Coastal Conservancy.

Staff Recommendation: Staff sees the TMT as a valuable and important forum for communication and collaboration towards the shared goals of protecting and restoring the Tsurai Study Area. All recommendations made here are in the spirit of building upon past efforts and advancing implementation of the Tsurai Management Plan recommendations. The TMT is not a Committee established and created by the City Council, where the Council can clearly appoint members and set policy for the group. That said, the Council can clearly articulate City policy and guidance for the City representatives to advance with the other members of the TMT.

Staff recommends that the City Council consider adopting the following policy positions:

- 1) TMT meetings should be open to the public. Where discussions of confidential information regarding cultural resources is needed, the TMT can hold closed sessions, or the key parties can meet outside of the TMT format.
- 2) TMT membership should be expanded to include the other three stakeholder groups listed in the TMP – The Trinidad Rancheria, a representative of adjacent landowners, and an ‘interested public’ representative
- 3) The TMT should develop and adopt some basic written guidelines or bylaws, including how to move forward when members cannot reach unanimous consensus.
- 4) City participation in the TMT needs to be subject to applicable Brown Act requirements.
- 5) Direct staff to convey any adopted policies to the TMT members and TMP Stakeholders.

Council comments included:

West: Asked City Attorney Stunich about the status of TMT meetings regarding the Brown Act.

Stunich stated he had concerns about the meetings, especially if Councilmembers are attending. He explained that sending Staff to a meeting or sending a Councilmember to gather information does not present any Brown Act issues. However, if a Councilmember is attending and participating it's best to be cautious and abide by the Brown Act. Stunich also stated that it was “odd” that the TMT meetings are intended to manage public property.

Public comment included:

Richard Johnson – Trinidad Area Resident

Question about whether the Coastal Conservancy has to abide by the Brown Act. **City Manager Berman** confirmed that the State must abide by the Brown Act, but they don't send Board members to the TMT meetings.

Patti Fleschner – Trinidad Area Resident

I support public TMT meetings, represented by the 7 participating stakeholders. Too many misconceptions occur when certain entities are left out.

Dorothy Cox – Trinidad

TMT meetings should be posted and published just like all other official City meetings.

James Brown – Trinidad Rancheria Council member

I support the recommendation that the team should consist of the 7 stakeholders and open to the public.

Sarah Lindgren-Akana – Tsurai Ancestral Society

I emailed a comment letter to the City earlier tonight. This item should be brought to the current management team for discussion. We've been working on this for 11 years, and in the process of settling an ongoing lawsuit with the City. The Council is invited to a management team meeting on March 07 – location to be announced.

Toby VanLandingham – Yurok Tribal Council member

I represent Witchepec district on the Council. Is the City planning to transfer the 12.5 acre Tsurai Study Area to the Yurok Tribe? How can I continue to authorize funds for our legal team to spend more time on this process if the Council is changing its mind on the transfer?

Council comments included:

Miller: I'm want to do everything I can to help the City avoid potential litigation. I want to find the smoothest path to resolution. The composition of the Council has changed since 2007, and the City's thoughts on this matter have matured as well. We are growing from all the additional information we've gathered, and I support the manager's recommendations. I believe this Council supports greater representation on the Management Team, open meetings, and inclusivity. Thanked Mayor Rotwein for her work and dedication to this issue.

Ladwig: I too support the City Manager's recommendations for the Management Team, with the goal of expanding on the work that's been done over the years.

West: We have a responsibility to the City to bring in all 7 stakeholders, include the public, and follow the Brown Act. I agree that it's time to make changes – for the long term - but I'd like to discuss this with the Management Team first.

Baker: Asked for clarification as to the role the 7 stakeholders will have in decisions. Title issues have arisen since the land transfer discussions took place. Should the Management Team be able to weigh in on boundary issues? I would like to discuss this with the Management Team before making a decision tonight.

City Attorney Stunich explained that General Plan Policy 69 does not give veto power to any outside or elected groups. The City owns the land and has rights as owners. The City has the final say in decisions that affect the land. However, there's a very difficult and complex legal scheme created between the 2005 Frame Settlement, Policy 69, and the Tsurai Management Plan. There is no intent to derail these agreements. The Management Team is an advisory committee to the landowner – not the decision maker. As landowner the City has the final decision.

Rotwein: I've read the Management Plan, and I'm in favor of supporting the City Manager's recommendation to expand the team to include 7 stakeholders and have the meetings be open to the public. The public has been left out of these meetings for too long. Transparency is important.

City Manager Berman noted that what we're deciding tonight is to notify the Management Team that this is what the City "thinks" should happen. Staff believes it is important to allow the existing Management Team meeting to have a few meetings to discuss the City's position to make changes as recommended.

City Attorney Stunich noted that regardless of whether the Council's recommendations are accepted, it does not mean it won't participate in the process of achieving the Team goals.

*Motion (Miller/Ladwig) to support the recommendations from the City Manager listed below, adding the Trinidad Coastal Land Trust and Trinidad Civic Club to the stakeholder list, but eliminate "interested public" since the meetings are recommended to be open to the public. **Passed 3-2. No – West, Baker***

- 1) *TMT meetings should be open to the public. Where discussions of confidential information regarding cultural resources is needed, the TMT can hold closed sessions, or the key parties can meet outside of the TMT format.*
- 2) *TMT membership should be expanded to include the other three stakeholder groups listed in the TMP – The Trinidad Rancheria, Trinidad Coastal Land Trust, the Trinidad Civic Club, a representative of adjacent landowners.*
- 3) *TMT should develop and adopt some basic written guidelines or bylaws, including how to move forward when members cannot reach unanimous consensus*
- 4) *City participation in the TMT needs to be subject to applicable Brown Act requirements*
- 5) *Direct staff to convey any adopted policies to the TMT members and TMP Stakeholders*

XII. ADJOURNMENT

Meeting adjourned at 8:05pm.

Submitted by:

Gabriel Adams
City Clerk

Approved by:

Susan Rotwein
Mayor